

REMARKS

Applicants' undersigned attorney thanks the Examiner for her comments. Applicants respectfully request reconsideration of this patent application, particularly in view of the above amendments and the following remarks. Currently, Claims 1-14, 19-32, 36-40, 44-52, 56-57, and 59-60 are pending. With this Amendment, Claims 14 and 32 have also been canceled. Claims 49-51 and 59 have been allowed.

Summary of Interview

On 30 June 2006, Margaret M. Crosby and Examiner Stephens had a telephone interview. The 01 June 2006 Advisory Action, the 09 March 2006 Final Office Action, U.S. Patent 5,624,428 (Sauer) as well as MPEP Sections 2173 and 2106 were discussed.

The Examiner and Margaret M. Crosby discussed the term "outward" which appears in the claims and they also discussed the arguments previously set forth on pages 19-22 in the 05 May 2006 Request for Reconsideration. The definitions of "outward" and "inward" were discussed as well as the text of the specification that discusses and supports these terms, as set forth on pages 20-21 of the Request for Reconsideration.

In addition, the Examiner's previous statement from page 2 of the 09 March 2006 Final Office Action, i.e., "giving the broadest reasonable interpretation and without bringing limitations from the specification into the claims, the fastener 42 is 'away' from the fastener 44 and is, therefore, considered outward from one another." (Emphasis added). This statement was discussed in light of the MPEP sections (2173.01 and 2173.05(a)) cited on pages 21-22 of the Request for Reconsideration. These MPEP sections discuss the concepts not only of Applicant as his own lexicographer, but also that pending claims must be given the broadest reasonable interpretation consistent with the specification.

Margaret M. Crosby pointed out that based on these MPEP sections (2173.01 and 2173.05(a)), the term "outward" in the claims should be given the meaning during examination consistent with the specification, and not the broader meaning (i.e.,

‘away’) which the Examiner is applying and which is *not consistent* with the specification.

Regarding MPEP Sections 2173.01 and 2173.05(a), the Examiner acknowledged that these sections were pertinent. However, the Examiner emphasized that other sections in the MPEP discuss the concept of the Applicant as his own lexicographer and also discuss that the claims need to be amended to more specifically recite structural elements. The Examiner suggested that there are many MPEP sections on these topics and that they all overlap and all need to be read together. Specifically, the Examiner pointed out MPEP 2106, II., C., which provides “If the applicant asserts that a term has a meaning that conflicts with the term’s art-accepted meaning, Office personnel should encourage the applicant to amend the claim to better reflect what applicant intends to claim as the invention.” In essence, the Examiner stated that she was encouraging amendment of the claims to better reflect the structural elements. Margaret M. Crosby pointed out that MPEP 2106 related to computer-related inventions, and also pointed out that the term “outward” in the specification does not conflict with the art-accepted meaning. In response, the Examiner then stated that this part of MPEP 2106 is touching on general concepts not limited to computer inventions, and also that the definition of “outward” in the specification is broad and subject to interpretation. This statement was made by the Examiner despite the very specific definition set forth in the specification. Margaret M. Crosby stated that she disagreed that the definition in the specification was broad, but rather very specific.

In addition, the Examiner mentioned that her position is consistent with how applications are prosecuted in the U.S. Patent and Trademark Office, i.e., that it is best if the claims reflect the structural limitations.

Next, the Examiner and Margaret M. Crosby discussed other possible language to reflect the structural elements. Instead of “outward,” Margaret M. Crosby suggested using the word “between” as it appears on page 41 with respect to Figure 10, lines 8-10, i.e., that “the frangible bond 100 can be located between the fastening component 82 and the distal edge 68a of the front side panel 34 and between the mating fastening component 84 and the distal edge 68b of the back side panel 134.” The

Examiner and Margaret M. Crosby discussed this language with respect to Figure 10 as well as with respect to the current claim language. The Examiner stated that she thought that the word “between” was much more specific with respect to setting forth the structure and relationship of the frangible bonds, fastening components and mating fastening components. The Examiner suggested that if the claims were amended to recite this language, without guaranteeing anything, that it would be “fine” with respect to the Sauer reference. However, she mentioned that she would need to do another search.

Although no specific agreement was reached, Applicants offer the foregoing amendments and the following arguments.

Amendments to the Claims

Independent Claims 1, 19, 36, and 52 have been amended to delete the term “outward” and to recite the location of the frangible bond using the word “between,” pursuant to the 30 June 2006 telephone interview with the Examiner, to define the relationship between the frangible bond and the fastening component, mating fastening components and the distal edges of the side panels. These amendments are supported in the Specification at page 41, lines 6-10, Figure 10, page 8, lines 5-8; Figure 4, page 7, lines 5-6; Figures 13A and 14A, page 44, lines 13-18 and page 8, lines 15-18 and page page 9, lines 4-7. No new matter has been added.

With this Amendment, Claims 14 and 32 have also been canceled.

Claim Rejections - 35 U.S.C. §102

The rejection of Claims 1, 2, 4-7, 14, 19, 21 28, 32, 36-40, 44, 45, 52 and 60 (Claim 59 having been allowed) under 35 U.S.C. §102(b) as being anticipated by Sauer (U.S. Patent No. 5,624,428) is respectfully traversed.

Applicants’ claims 1 and 19 have been amended to require that the frangible bond is located between the fastening component and the distal edge of the front side panel and between the mating fastening component and the distal edge of the back side panel when the fastening component and mating fastening component are in the

unfastened condition. In the Final Office Action, the Examiner identifies item 44 of Sauer (the secondary fastener) as representing the frangible bond and item 42 (the primary fastener) as the mating fastening component and the front panel 22 as the fastening component. In Figure 2 of Sauer, the line for item 28 (side portion) is pointing to the distal edge of the back side panel. Applicants' claims 36 and 52 have been amended to require that the frangible bond is located **between** the mechanical fastening element and the distal edge of the side panel comprising the mechanical fastening element.

Sauer does not disclose that item 44 is located between items 42 and 28. Therefore, this rejection should be withdrawn.

Claim 60

Finally, with regard to Claim 60, Applicants' independent Claim 60 requires that the frangible bond is aligned with the fastening component and mating fastening component when the fastening component and mating fastening component are in the unfastened condition. Applicants' Fig. 11 shows the frangible bond aligned with the fastening component and the mating fastening component. (Page 8, lines 9-11; Page 41, lines 11-12). On the right side of Fig. 2 of Sauer the fastening component and mating fastening component are in the unfastened condition, but the secondary fastener 44 is not aligned with the primary fastener 42.

For at least the reasons given above, Applicants respectfully submit that the teachings of Sauer fail to disclose Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Claim Rejections - 35 U.S.C. §103

a) Sauer

The rejection of Claims 3, 20, and 22-27 under 35 U.S.C. §103(a) as being unpatentable over Sauer is respectfully traversed.

Claims 3, 20 and 22-27 depend from Claims 1 and 19. On page 5 of the Office Action, the Examiner states that Sauer discloses the invention substantially as claimed, but is silent on the distance between the fastening components and the distal edges.

Applicants respectfully disagree that Sauer discloses the invention substantially as claimed.

One of the factors in establishing a prima facie case of obviousness is that the prior art references must teach or suggest all the claim limitations. As discussed above with respect to Claims 1 and 19, Sauer does not disclose all of the limitations of Claims 1 or 19, as amended.

For at least the reasons presented above, Applicants respectfully submit that Claims 3, 20 and 22-27 are not rendered obvious by Sauer. Thus, Applicants respectfully request withdrawal of this rejection.

b) Sauer in view of Elsberg

The rejection of Claims 8-13, 29-31, 46-48 and 56-57 under 35 U.S.C. §103(a) as being unpatentable over Sauer in view of U.S. Patent 6,287,287 (Elsberg) is respectfully traversed.

Claims 8-13, 29-31, 46-48 and 56-57 depend from Claims 1, 19, 36 and 52. On page 5 of the Office Action, the Examiner states that Sauer discloses the invention substantially as claimed, but is silent on the strength of the bonds, and that Elsberg discloses passive side bonds having a strength within the claimed ranges.

Applicants respectfully disagree that Sauer discloses the invention substantially as claimed.

One of the factors in establishing a prima facie case of obviousness is that the prior art references must teach or suggest all the claim limitations. As discussed

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above with respect to Claims 1, 19, 36 and 52 Sauer does not disclose all of the limitations of Claims 1, 19, 36 or 52, as amended. Furthermore, neither Sauer nor Elsberg, alone or in combination, discloses all of the claim limitations.

For at least the reasons presented above, Applicants respectfully submit that Claims 8-13, 29-31, 46-48 and 56-57 are not rendered obvious by Sauer in view of Elsberg. Thus, Applicants respectfully request withdrawal of this rejection.

Allowable Subject Matter

On page 6 of the Final Office Action, the Examiner indicated that Claims 49-51, and 59 are allowed.

Conclusion

Applicants intend to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicants have not addressed in this response, Applicants' undersigned attorney requests a telephone interview with the Examiner.

Respectfully submitted,



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